

**Appl. No.** : 10/801,931  
**Filed** : March 15, 2004

### **SUMMARY OF INTERVIEW**

#### Attendees, Date and Type of Interview

On 19 April 2007, an interview was conducted at the USPTO by Examiner Ralph J. Gitomer with Applicants' representatives, Marc T. Morley and Jason J. Jardine.

#### Identification of Claims Discussed

Applicants and Examiner discussed currently pending claims.

#### Identification of Prior Art Discussed

Applicants and Examiner discussed the cited art.

#### Proposed Amendments

Applicants proposed amendments to the claims for minor corrections.

#### Principal Arguments and Other Matters

Applicants explained the differences between the current claims and the cited art.

#### Results of Interview

Applicants proposed to submit claim amendments and argument.

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## REMARKS

### Amendments to the Claims

Claims 1-86 and 88 are pending. New Claims 88-91 have been added. Claims 1-3, 5-9, 14-15, 19-21, 23-25, 27-31, 33, 36-37, 40-42, 44-46, 49-51, 58, 61-66, 68-72, 77-79, 82-83, 85 and 86 have been amended for clarity. Additions to the claims are shown using underlined text, and deletions by either double-brackets "[[ ]]" or ~~striketrough text~~. These amendments and new claim do not constitute new matter.

### Rejection under 35 U.S.C. § 112

The Examiner rejected Claims 1-86 under 35 U.S.C. § 112, ¶ 2 as being indefinite. Applicants have amended the claims above such that each of the independent claims includes the phrase "from a population of cells" after "selected cells" in the preamble. Applicants have also amended the claims to replace previous phrases with standard Markush terminology "selected from the group consisting of" as appropriate above. In light of the above amendments Applicants submit that the rejection is overcome and respectfully request that the Examiner's rejection of Claims 1-86 under § 112, ¶ 2 be reconsidered and withdrawn.

### Rejection under 35 U.S.C. § 102(a)

The Examiner has rejected Claims 1-18, 22-36, 38, 39, 43-60, 64-77, 79-81 and 85-86 and 32-37 under 35 U.S.C. § 102(a) as anticipated by U.S. Patent No. 6,642,018 ("the '018 patent"). "A claim is anticipated [[under § 102(a)]] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131 (quoting *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987)).

Because each and every element of Claims 1-18, 22-36, 38, 39, 43-60, 64-77, 79-81 and 85-86 and 32-37 is not found in the '018 patent, the '018 patent does not anticipate Claims 1-18, 22-36, 38, 39, 43-60, 64-77, 79-81 and 85-86 and 32-37. As discussed with the Examiner during the interview of April 19, 2007, independent method Claims 1, 23, 44, 64, 85 and 86 recite, inter alia, "cells immobilized in proximity to a capture matrix." The '018 patent does not describe immobilizing cells in proximity to a capture matrix. Thus, the '018 patent does not expressly or

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inherently describe all of the elements of Claims 1, 23, 44, 64, 85 and 86. Applicants thus respectfully request that the Examiner's rejection of Claims 1, 23, 44, 64, 85 and 86 under § 102(a) in light of the '018 patent be reconsidered and withdrawn.

**Rejection under 35 U.S.C. § 103(a)**

The Examiner rejected Claims 19-21, 37, 40-42, 61-63, 78 and 82-84 under 35 U.S.C. § 103(a) as being rendered obvious by the '018 patent. Claims 19-21, 37, 40-42, 61-63, 78 and 82-84, however, are not obvious. To establish a *prima facie* case of obviousness there must be a teaching or suggestion of all the claim limitations. M.P.E.P. § 2142. As discussed with the Examiner during the interview of April 19, 2007, independent method Claims 1, 23, 44, 64, 85 and 86 (from which Claims 19-21, 37, 40-42, 61-63, 78 and 82-84 depend) recited, inter alia, "cells immobilized in proximity to a capture matrix." As noted above, the '018 patent does not teach or suggest immobilizing cells in proximity to a capture matrix. Thus, the '018 patent does not teach or suggest all of the elements of Claims 19-21, 37, 40-42, 61-63, 78 and 82-84. Applicants thus respectfully request that the Examiner's rejection of Claims 19-21, 37, 40-42, 61-63, 78 and 82-84 be withdrawn.

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### CONCLUSION

Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, the amendments and arguments in support of the patentability of the pending claim set are presented above. Applicants assert that in light of these amendments and remarks the pending claims are placed in condition for allowance.

If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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